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~~{deleted text}~~ shows text that was in SB0146 but was deleted in SB0146S01.

inserted text shows text that was not in SB0146 but was inserted into SB0146S01.

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Senator Ann Millner proposes the following substitute bill:

HIGHER EDUCATION GOVERNANCE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ann Millner

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions regarding governance of the state's system of higher education.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ removes an exception for public employment of a relative under certain circumstances;

~~{ } → creates, within the University of Utah, the Office of the Commissioner of the Utah System of Higher Education and the Utah Board of Higher Education for the purposes of shared administrative services;~~

~~{ } ▶ amends the membership and duties of the {State} Utah Board of Higher Education~~

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(board);

- ▶ amends the ~~{nominating and}~~ appointment process of members of the board;
- ▶ requires the University of Utah to provide administrative support to the board;
- ▶ amends the duties of the commissioner of higher education;
- ▶ repeals requirements regarding the establishment of certain committees;
- ▶ amends provisions regarding the employment, support, and evaluation of institution of higher education presidents;
- ▶ amends provisions regarding the approval of programs;
- ▶ requires the board to engage in certain program and discipline reviews;
- ▶ amends provisions regarding the set aside and reallocation of new performance funding;
- ▶ removes members of the board from the Higher Education and Corrections Council;
- ▶ expands the allowed term of a land lease;
- ▶ repeals obsolete provisions regarding past requirements; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides ~~{revisor instructions}~~ a special effective date.

Utah Code Sections Affected:

AMENDS:

52-3-1, as last amended by Laws of Utah 2018, Chapter 118

53B-1-101.5, as last amended by Laws of Utah 2020, Chapter 365

53B-1-401, as last amended by Laws of Utah 2022, Chapters 166, 177

53B-1-402, as last amended by Laws of Utah 2022, Chapters 166, 177

53B-1-403, as enacted by Laws of Utah 2020, Chapter 365

53B-1-404, as last amended by Laws of Utah 2022, Chapter 362

53B-1-408, as last amended by Laws of Utah 2021, Chapter 187

53B-1-501, as enacted by Laws of Utah 2020, Chapter 365 and last amended by

Coordination Clause, Laws of Utah 2020, Chapter 365

53B-2-102, as last amended by Laws of Utah 2021, Chapter 187

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53B-2a-101, as last amended by Laws of Utah 2020, Chapters 152, 365

53B-2a-112, as last amended by Laws of Utah 2022, Chapter 421

53B-7-705, as last amended by Laws of Utah 2021, Chapter 351

53B-7-706, as last amended by Laws of Utah 2021, Chapter 351

53B-13a-102, as last amended by Laws of Utah 2022, Chapter 370

53B-13b-102, as last amended by Laws of Utah 2017, Chapter 143

53B-13c-101, as enacted by Laws of Utah 2021, Chapter 271

53B-16-101, as last amended by Laws of Utah 2021, Second Special Session, Chapter 1

53B-16-102, as last amended by Laws of Utah 2020, Chapter 365

53B-16-105, as last amended by Laws of Utah 2020, Chapter 365

53B-20-101, as enacted by Laws of Utah 1987, Chapter 167

53B-21-108, as enacted by Laws of Utah 1987, Chapter 167

53B-35-201, as enacted by Laws of Utah 2022, Chapter 147

67-1-12, as last amended by Laws of Utah 2017, Chapter 382

REPEALS:

53B-1-406, as enacted by Laws of Utah 2020, Chapter 365

53B-1-502, as enacted by Laws of Utah 2020, Chapter 365

53B-6-106, as last amended by Laws of Utah 2020, Chapter 365

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **52-3-1** is amended to read:

52-3-1. Employment of relatives and household members prohibited --

Exceptions.

(1) As used in this chapter:

(a) "Appointee" means an employee whose salary, wages, pay, or compensation is paid from public funds.

(b) "Chief administrative officer" means the person who has ultimate responsibility for the operation of the department or agency of the state or a political subdivision.

(c) "Household member" means a person who resides in the same residence as the public officer.

(d) "Public officer" means a person who holds a position that is compensated by public

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funds.

(e) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(2) (a) A public officer may not employ, appoint, or vote for or recommend the appointment of an appointee when the appointee will be directly supervised by a relative or household member, unless:

(i) the appointee is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of the appointee's compliance with civil service or merit system laws or regulations;

(ii) the appointee will be compensated from funds designated for vocational training;

(iii) the appointee will be employed for a period of 12 weeks or less;

(iv) the appointee is a volunteer as defined by the employing entity; or

(v) the chief administrative officer determines that the appointee is the only or best person available, qualified, or eligible for the position.

(b) A public officer may not directly supervise an appointee who is a relative or household member of the public officer, unless:

(i) the appointee was appointed or employed before the public officer assumed the public officer's supervisory position, if the appointee's appointment did not violate the provisions of this chapter in effect at the time of the appointee's appointment;

(ii) the appointee is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of the appointee's compliance with civil service or merit system laws or regulations;

(iii) the appointee will be compensated from funds designated for vocational training;

(iv) the appointee will be employed for a period of 12 weeks or less;

(v) the appointee is a volunteer as defined by the employing entity;

(vi) the appointee is the only person available, qualified, or eligible for the position; or

(vii) the chief administrative officer determines that the public officer is the only individual available or best qualified to perform supervisory functions for the appointee.

(c) When a public officer supervises a relative or household member under Subsection (2)(b):

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(i) the public officer shall immediately submit a complete written disclosure of the public officer's relationship with the relative or household member:

(A) for a public officer subject to the requirements of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, in the same manner the public officer is required to make a disclosure under Section 67-16-7;

(B) for a public officer subject to the requirements of Title 17, Chapter 16a, County Officers and Employees Disclosure Act, in the same manner the public officer is required to make a disclosure under Section 17-16a-6; and

(C) for a public officer subject to the requirements of Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act, in the same manner the public officer is required to make a disclosure under Section 10-3-1306; and

(ii) the public officer may not evaluate the job performance of or recommend salary increases for the relative or household member.

(d) A disclosure submitted under this Subsection (2) is public, and the person or entity with which the public officer files the disclosure shall make the disclosure available for public inspection.

(3) An appointee may not accept or retain employment if accepting or retaining employment will place the appointee under the direct supervision of a relative or household member unless:

(a) the relative or household member was appointed or employed before the appointee assumed the appointee's position, if the appointment of the relative or household member did not violate the provisions of this chapter in effect at the time of the appointment;

(b) the appointee was or is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of the appointee's compliance with civil service or merit system laws or regulations;

(c) the appointee is the only person available, qualified, or eligible for the position;

~~[(d) the appointee is compensated from funds designated for vocational training;]~~

~~[(e)]~~ (d) the appointee is employed for a period of 12 weeks or less;

~~[(f)]~~ (e) the appointee is a volunteer as defined by the employing entity; or

~~[(g)]~~ (f) the chief administrative officer determines that the appointee's relative or household member is the only individual available or qualified to supervise the appointee.

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Section 2. Section **53B-1-101.5** is amended to read:

53B-1-101.5. Definitions.

As used in this title:

- (1) (a) "Academic education" means an educational program that is offered by a degree-granting institution.
- (b) "Academic education" does not include technical education.
- (2) "Board" means the Utah Board of Higher Education described in Section 53B-1-402.
- (3) "Career and technical education" means an educational program that:
 - (a) is designed to meet industry needs;
 - (b) leads to:
 - (i) a certificate; or
 - (ii) a degree; and
 - (c) may qualify for funding under the Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. 2301 et seq.
- (4) "Commissioner" means the commissioner of higher education appointed in accordance with Section 53B-1-408.
- (5) "Degree-granting institution of higher education" or "degree-granting institution" means an institution of higher education described in Subsection 53B-1-102(1)(a).
- (6) "Institution board of trustees" means:
 - (a) an institution of higher education board of trustees described in Section 53B-2-103;or
 - (b) a technical college board of trustees described in Section 53B-2a-108.
- (7) "Technical college" means an institution of higher education described in Subsection 53B-1-102(1)(b).
- (8) (a) "Technical education" means career and technical education that:
 - (i) leads to ~~[an institutional]~~ a certificate; or
 - (ii) is short-term training.(b) "Technical education" does not include general education.

Section 3. Section **53B-1-401** is amended to read:

53B-1-401. Definitions.

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As used in this part:

- (1) "Board" means the Utah Board of Higher Education described in Section 53B-1-402.
- (2) "Institution of higher education" or "institution" means an institution of higher education described in Section 53B-1-102.
- (3) "Miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

~~[(4) "Nominating committee" means the committee described in Section 53B-1-406.]~~

Section 4. Section **53B-1-402** is amended to read:

53B-1-402. Establishment of board -- Powers, duties, and authority -- Reports.

(1) (a) There is established [~~a~~ State Board of Regents] the Utah Board of Higher Education, ~~formerly the~~ State Board of Regents, which:

~~[(a) beginning July 1, 2020, is renamed the Utah Board of Higher Education;]~~

~~[(b)]~~ (a)(i) is the governing board for the institutions of higher education;

~~[(c)]~~ (b)(ii) controls, ~~[manages, and supervises]~~ oversees, and regulates the Utah system of higher education in a manner consistent with the purpose of this title and the specific powers and responsibilities granted to the board; and

~~[(d)]~~ (c) is a body politic and corporate with perpetual succession and with all rights, immunities, and franchises necessary to function as a body politic and corporate.]

(b)(i) The University of Utah shall provide administrative support for the board.

(ii) Notwithstanding Subsection (1)(b)(i), the board shall maintain the board's independence, including in relation to the powers and responsibilities granted to the board.

(2) The board shall:

(a) establish and promote a state-level vision and goals for higher education that emphasize data-driven retrospective and prospective system priorities, including:

(i) quality;

(ii) affordability;

(iii) access and equity;

(iv) completion;

(v) workforce alignment and preparation for high-quality jobs; and

(vi) economic growth;

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- (b) ~~ff~~ establish ~~ff~~ system policies and practices that advance the vision and goals;
- (c) ~~ff~~ establish ~~ff~~ metrics to demonstrate and monitor:
 - (i) performance related to the goals; and
 - (ii) performance on measures of operational efficiency;
 - (d) collect and analyze data including economic data, demographic data, and data related to the metrics;
- (e) [~~coordinate~~] govern data quality and collection across institutions;
- (f) establish, approve, and oversee each institution's mission and role in accordance with Section 53B-16-101;
- (g) assess an institution's performance in accomplishing the institution's mission and role;
- (h) participate in the establishment and review of programs of instruction in accordance with Section 53B-16-102;
- (i) perform the following duties related to an institution of higher education president, including:
 - (i) appointing an institution of higher education president in accordance with Section 53B-2-102;
 - (ii) through the commissioner and the board's executive committee:
 - (A) providing support and guidance to an institution of higher education president; and
 - ~~(iii)~~ (B) evaluating an institution of higher education president based on institution performance and progress toward systemwide priorities; [~~and~~]
 - ~~(iv)~~ (iii) setting the [~~compensation~~] terms of employment for an institution of higher education president ~~ff;ff~~, including performance-based compensation, through an employment contract or another method of establishing employment; and
 - (iv) establishing, through a public process, a statewide succession plan to develop potential institution presidents from within the system;
- (j) create and implement a strategic finance plan for higher education, including by:
 - (i) establishing comprehensive budget and finance priorities for academic education and technical education;
 - (ii) allocating statewide resources to institutions;
 - (iii) setting tuition for each institution;

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(iv) administering state financial aid programs;

(v) administering performance funding in accordance with Chapter 7, Part 7, Performance Funding; and

(vi) developing a strategic capital facility plan and prioritization process in accordance with Chapter 22, Part 2, Capital Developments, and Sections 53B-2a-117 and 53B-2a-118;

(k) create and annually report to the Higher Education Appropriations Subcommittee on a seamless articulated education system for Utah students that responds to changing demographics and workforce, including by:

(i) providing for statewide prior learning assessment, in accordance with Section 53B-16-110;

(ii) establishing and maintaining clear pathways for articulation and transfer, in accordance with Section 53B-16-105;

(iii) establishing degree program requirement guidelines, including credit hour limits;

(iv) aligning general education requirements across degree-granting institutions;

(v) coordinating and incentivizing collaboration and partnerships between institutions in delivering programs;

(vi) coordinating distance delivery of programs; [~~and~~]

(vii) coordinating work-based learning; and

(viii) emphasizing the system priorities and metrics described in Subsections (2)(a) and (c);

(l) coordinate with the public education system:

(i) regarding public education programs that provide postsecondary credit or certificates; and

(ii) to ensure that an institution of higher education providing technical education serves secondary students in the public education system;

(m) delegate to an institution board of trustees certain duties related to institution governance including:

(i) guidance and support for the institution president;

(ii) effective administration;

(iii) the institution's responsibility for contributing to progress toward achieving systemwide goals; and

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- (iv) other responsibilities determined by the board;
 - (n) delegate to an institution of higher education president management of the institution of higher education;
 - (o) consult with an institution of higher education board of trustees or institution of higher education president before acting on matters pertaining to the institution of higher education;
 - (p) maximize efficiency throughout the Utah system of higher education by identifying and establishing shared administrative services^[*], beginning with:
 - (i) commercialization;
 - (ii) services for compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;
 - (iii) information technology services; and
 - (iv) human resources, payroll, and benefits administration;
 - (q) develop strategies for providing higher education, including career and technical education, in rural areas;
 - (r) manage and facilitate a process for initiating, prioritizing, and implementing education reform initiatives, beginning with common applications and direct admissions; and
 - (s) provide ongoing quality review of [~~institutions~~] programs.
- (3) The board shall submit an annual report of the board's activities and performance against the board's goals and metrics to:
- (a) the Education Interim Committee;
 - (b) the Higher Education Appropriations Subcommittee;
 - (c) the governor; and
 - (d) each institution of higher education.
- (4) The board shall prepare and submit an annual report detailing the board's progress and recommendations on workforce related issues, including career and technical education, to the governor and to the Legislature's Education Interim Committee by October 31 of each year, including information detailing:
- (a) how institutions of higher education are meeting the career and technical education needs of secondary students [~~are being met by institutions of higher education~~];
 - (b) how the ~~{system provides an }~~ [~~emphasis on~~] system emphasized high demand,

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high wage, and high skill jobs in business and industry [~~is being provided~~];

(c) performance outcomes, including:

(i) entered employment;

(ii) job retention; and

(iii) earnings;

(d) an analysis of workforce needs and efforts to meet workforce needs; and

(e) student tuition and fees.

(5) The board may modify the name of an institution of higher education to reflect the role and general course of study of the institution.

(6) The board may not take action relating to merging a technical college with another institution of higher education without legislative approval.

(7) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(8) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(9) The board shall adopt a policy requiring institutions to provide at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth;

or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner;

(ii) (A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy;

(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born as a result of the pregnancy; or

(iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part

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8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Section 5. Section **53B-1-403** is amended to read:

53B-1-403. Committees.

~~[(1) The board shall form:]~~

~~[(a) a committee to focus on technical education; and]~~

~~[(b) a committee to focus on academic education. (2)]~~ The board may form committees [in addition to the committees described in Subsection (1)] to support the board in fulfilling the board's duties.

Section 6. Section **53B-1-404** is amended to read:

53B-1-404. Membership of the board -- Student appointee -- Terms -- Oath -- Officers -- Committees -- Bylaws -- Meetings -- Quorum -- Vacancies -- Compensation -- Training.

(1) The board consists of ~~[18]~~ 10 residents of the state ~~[appointed by]~~ whom the governor appoints with the advice and consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, ~~[as follows:]~~ and this section.

~~[(a) subject to Subsections (2)(a), (3), and (6)(b)(ii), 16 members appointed from among candidates presented to the governor by a nominating committee; and]~~

~~[(b) two student members appointed as described in Subsection (4).]~~

(2) (a) For an appointment ~~[of a member]~~ effective July 1, ~~[2020]~~ 2023, the governor shall appoint the member in accordance with Section 53B-1-501.

(b) ~~[Unless {} appointed by the governor]~~ Except for an individual whom the governor appoints ~~{an individual}~~ as described in Section 53B-1-501, the term of each ~~[individual who is a]~~ member of the ~~[State Board of {} Regents on May 12, 2020, expires on June 30, 2020]~~ Utah Board of Higher Education ~~{on the effective date of this bill, }~~ expires on ~~{June 30}~~ July 1, 2023.

~~[(3) If the governor is not satisfied with a sufficient number of the candidates presented by the nominating committee to make the required number of appointments, the governor may request that the committee nominate additional candidates.]~~

~~[(4) (a) For the appointments described in Subsection (1)(b), the governor shall appoint:]~~

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~~[(i) one individual who is enrolled in a certificate program at a technical college at the time of the appointment; and]~~

~~[(ii) one individual who:]~~

~~[(A) is a fully matriculated student enrolled in a degree-granting institution; and]~~

~~[(B) is not serving as a student body president at the time of the nomination.]~~

~~[(b) The governor shall select:]~~

~~[(i) an appointee described in Subsection (4)(a)(i) from among three nominees, presented to the governor by a committee consisting of eight students, one from each technical college, each of whom is recognized by the student's technical college; and]~~

~~[(ii) an appointee described in Subsection (4)(a)(ii) from among three nominees presented to the governor by the student body presidents of degree-granting institutions.]~~

~~[(c) An appointee described in Subsection (4)(a) is not subject to the public comment process described in Section 63G-24-204.]~~

~~[(5)] (3) (a) [AH] The governor shall make all appointments to the board ~~[shall be made]~~ on a nonpartisan basis.~~

(b) An individual may not serve simultaneously on the board and an institution board of trustees.

(c) The governor shall ~~{ensure that one appointment to the board is a}~~ appoint at least one student member ~~{whom, notwithstanding}~~ to the board.

(d) Notwithstanding Subsection (1), the ~~{governor appoints without}~~ governor's appointment of a student member described in Subsection (3)(c) is not subject to the advice and consent of the Senate.

~~[(6)] (4) (a) (i) Except as provided in Subsection (6)(a)(ii) and Section 53B-1-501, [members shall be appointed to] the governor shall appoint board members to six-year staggered terms~~[, each of which begins]~~ beginning on July 1 of the year of appointment.~~

(ii) ~~[A member described in Subsection (1)(b) shall be appointed]~~ The governor shall appoint the student member described in Subsection (3)(c) to a one-year term.

(b) (i) A board member ~~[described in Subsection (1)(a)]~~ other than the student member described in Subsection (3)(c) may serve up to two consecutive full terms.

~~[(ii) The governor may appoint a member described in Subsection (1)(a) to a second consecutive full term without a recommendation from the nominating committee.]~~

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~~[(iii)]~~ (ii) [A] The student member described in Subsection ~~[(1)(b)]~~ (3)(c) may not serve more than one full term.

~~[(e)]~~ (5) ~~[(f)]~~ The governor may, after consulting with the president of the Senate, remove a member for cause.

~~[(ii)]~~ ~~The governor shall consult with the president of the Senate before removing a member.]~~

~~[(7)]~~ (6) (a) A board member shall take the official oath of office before entering upon the duties of office.

(b) The ~~[oath shall be filed]~~ board shall file the oath described in Subsection (6)(a) with the Division of Archives and Records Services.

~~[(8)]~~ (7) The board shall elect a chair and vice chair from among the board's members ~~[who shall]~~ to serve terms of two years and until [their] the board chooses and qualifies successors ~~[are chosen and qualified]~~.

~~[(9)]~~ (8) (a) The board shall appoint a secretary from the commissioner's staff to serve at the board's discretion.

(b) The board's secretary is a full-time employee.

(c) The secretary shall record and maintain a record of all board meetings and perform other duties as the board directs.

~~[(10)]~~ (9) (a) The board may establish advisory committees, including a faculty and staff advisory committee.

(b) ~~[All]~~ The board shall address all matters requiring board determination ~~[shall be addressed]~~ in a properly convened meeting of the board or the board's executive committee.

~~[(11)]~~ (10) (a) The board shall enact bylaws for the board's own government not inconsistent with the constitution or the laws of this state.

(b) The board shall provide for an executive committee in the bylaws that:

(i) has the full authority of the board to act upon routine matters during the interim between board meetings;

(ii) may not act on nonroutine matters except under extraordinary and emergency circumstances; and

(iii) shall report to the board at the board's next meeting following an action undertaken by the executive committee.

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~~[(12)]~~ (11) (a) The board shall meet regularly upon the board's own determination.

(b) The board may also meet, in full or executive session, at the request of the chair, the commissioner, or at least five members of the board.

~~[(13)]~~ (12) ~~[A quorum of the board is required to conduct the board's business and consists of 10 members.]~~

~~—~~ ~~[(12)]~~ The board may not conduct the board's business without the agreement of a majority of the board.

~~[(14)]~~ (13) (a) ~~[A]~~ The governor shall immediately fill a vacancy in the board occurring before the expiration of a member's full term ~~[shall be immediately filled through the nomination process described in Section 53B-1-406 and in]~~ in accordance with this section.

(b) An individual ~~[appointed]~~ whom the governor appoints under Subsection ~~[(14)(a) serves]~~ (13)(a) ~~[serves]~~ shall serve for the remainder of the unexpired term.

~~[(15)]~~ (14) (a) (i) Subject to Subsection ~~[(15)(a)(ii)]~~ (14)(a)(ii), a member shall receive a daily salary for each calendar day that the member attends a board meeting that is the same as the daily salary for a member of the Legislature described in Section 36-2-3.

(ii) A member may receive a salary for up to 10 calendar days per calendar year.

(b) A member may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

~~[(16)]~~ (15) The commissioner shall provide to each member:

(a) initial training when the member joins the board; and

(b) ongoing annual training.

~~[(17)]~~ (16) A board member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 7. Section **53B-1-408** is amended to read:

53B-1-408. Appointment of commissioner of higher education -- Qualifications -- Associate commissioners -- Duties -- Office.

(1) (a) The board, upon approval from the governor and with the advice and consent of the Senate, shall appoint a commissioner of higher education to serve at the board's pleasure as

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the board's chief executive officer.

(b) The following may terminate the commissioner [~~may be terminated by~~]:

(i) the board; or

(ii) the governor, after consultation with the board.

(c) The board shall:

(i) set the salary of the commissioner;

(ii) subject to Subsection (3), prescribe the duties and functions of the commissioner;

and

(iii) select a commissioner on the basis of outstanding professional qualifications.

~~{(2) [(a) The commissioner shall appoint, subject to approval by the board:]~~

~~[(i) an associate commissioner for academic education; and]~~

~~[(ii) an associate commissioner for technical education.]~~

~~[(b)(i) (2)(a) The commissioner may appoint associate commissioners [in addition to the associate commissioners described in Subsection (2)(a)].~~

~~[(ii) (b) An [association] associate commissioner described in Subsection [(2)(b)(i)] (2)(a) is not subject to the approval of the board.~~

(3) The commissioner is responsible to the board to:

(a) ensure [~~that~~] the proper execution of the policies, programs, and strategic plan of the board [~~are properly executed~~];

(b) furnish information about the Utah system of higher education and make recommendations regarding that information to the board;

(c) provide state-level leadership in any activity affecting an institution of higher education; [~~and~~]

~~(d) in consultation with the board's executive committee and in accordance with Subsection 53B-1-402(2), evaluate and provide ~~{ the evaluation of and }~~ support and guidance to an institution of higher education president, including the provision of an executive coach for the president's first year of service; and~~

~~[(d)] (e) perform other duties [~~assigned by~~] the board assigns in carrying out the board's duties and responsibilities.~~

~~{ (4) (a) There is created, within the University of Utah, the Office of the Commissioner of the Utah System of Higher Education and the Utah Board of Higher Education.~~

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~~(b) The commissioner, the Office of the Commissioner of the Utah System of Higher Education and the Utah Board of Higher Education, and the board shall share administrative services with the University of Utah, as the board defines.~~

~~(c) Nothing in this Subsection (4) limits or reduces the independence of the commissioner, the Office of the Commissioner of the Utah System of Higher Education and the Utah Board of Higher Education, or the board in relation to statutory duties, including policy, internal audits, oversight of presidents, and systemwide strategic planning and prioritization.~~

‡ Section 8. Section **53B-1-501** is amended to read:

53B-1-501. Establishment of initial board membership in 2023.

(1) [(a)] The governor shall appoint, with the advice and consent of the Senate, individuals to the board, to ensure that beginning July 1, [2020] 2023, the board consists of [~~18 members, including:~~] 10 members with new terms in accordance with this section.

[(i) ~~at least six individuals who were members of the State Board of Regents on May 12, 2020;~~]

[(ii) ~~at least six individuals who were members of the Utah System of Technical Colleges Board of Trustees on May 12, 2020; and~~]

[(iii) ~~two student members appointed to the board in accordance with Section 53B-1-404.~~]

[(b) ~~Before making an appointment described in Subsection (1)(a), the governor shall consult:~~]

[(i) ~~for an appointment described in Subsection (1)(a)(i), with State Board of Regents leadership; and~~]

[(ii) ~~for an appointment described in Subsection (1)(a)(ii), with Utah System of Technical Colleges Board of Trustees leadership.~~]

(2) [(a)] Except for [~~an~~] the appointment of the student member described in Subsection [(1)(a)(iii)] 53B-1-404(3)(c), the governor shall appoint [~~an~~] each individual to a two-year, four-year, or six-year term to ensure that one-third of the members complete the members' terms on June 30 of each [~~even~~] odd number year.

[(b) ~~The governor may appoint an individual described in Subsection (1)(a) to a second term without the individual being considered by the nominating committee described in Section 53B-1-406 if, at the time of the individual's initial appointment to the board, the~~

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individual:]

~~[(i) is serving the individual's first full term on the State Board of Regents or the Utah System of Technical Colleges Board of Trustees; or]~~

~~[(ii) is not a member of the State Board of Regents or the Utah System of Technical Colleges Board of Trustees.]~~

~~[(c) An appointment described in Subsection (2)(b) is for a six-year term.]~~

(3) Following the appointments described in this section, the governor shall fill a vacancy on the board ~~[shall be filled]~~ in accordance with Section 53B-1-404.

(4) Notwithstanding Section 67-1-2, for an appointment described in this section:

(a) a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection 67-1-2(1); and

(b) the Senate is not required to hold a confirmation hearing.

Section 9. Section **53B-2-102** is amended to read:

53B-2-102. Appointment of institution of higher education presidents.

(1) As used in this section:

(a) "Institution of higher education" means:

(i) a degree-granting institution; or

(ii) a technical college.

(b) "President" means the president of an institution of higher education.

(c) "Search committee" means a committee that selects finalists for a position as an institution of higher education president.

(2) The board shall appoint a president for each institution of higher education.

(3) An institution of higher education president serves ~~[at the pleasure of]~~ in accordance with the terms of employment that the board establishes as described in Section 53B-1-402.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), to appoint an institution of higher education president, the board shall establish a search committee that includes representatives of faculty, staff, students, the institution of higher education board of trustees, alumni, the outgoing institution of higher education president's executive council or cabinet, and the board.

(ii) The board may delegate the authority to appoint the search committee described in Subsection (4)(a)(i) to an institution of higher education board of trustees.

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(iii) The commissioner shall provide staff support to a search committee.

(b) (i) Except as provided in Subsection (4)(b)(ii), a search committee shall be cochaired by a member of the board and a member of the institution of higher education board of trustees.

(ii) The board may delegate the authority to chair a search committee to the institution of higher education board trustees.

(c) A search committee described in Subsection (4)(a) shall forward three to five finalists to the board to consider for a position as an institution of higher education president.

(d) A search committee may not forward an individual to the board as a finalist unless two-thirds of the search committee members, as verified by the commissioner, find the individual to be qualified and likely to succeed as an institution of higher education president.

(5) (a) The board shall select an institution of higher education president from among the finalists presented by a search committee.

(b) If the board is not satisfied with the finalists forwarded by a search committee, the board may direct the search committee to resume the search process until the search committee has forwarded three finalists with whom the board is satisfied.

(6) The board, through the commissioner, shall:

(a) create a comprehensive, active recruiting plan to ensure a strong, diverse pool of potential candidates for institution of higher education presidents[-]; and

(b) review, in a closed executive session, ~~the progress of the individual institution}~~ individuals from within the system whose candidacy may be considered for future applicant pools in relation to the succession plan described in Section 53B-1-402.

(7) (a) Except as provided in Subsection (7)(b), a record or information gathered or generated during the search process, including a candidate's application and the search committee's deliberations, is confidential and is a protected record under Section 63G-2-305.

(b) Application materials for a publicly named finalist described in Subsection (5)(a) are not protected records under Section 63G-2-305.

Section 10. Section **53B-2a-101** is amended to read:

53B-2a-101. Definitions.

As used in this chapter:

(1) "Capital development" means the same as capital development project, as defined

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in Section 63A-5b-401.

(2) "Competency-based" means mastery of subject matter or skill level, as demonstrated through business and industry approved standards and assessments, achieved through participation in a hands-on learning environment, and which is tied to observable, measurable performance objectives.

(3) "Dedicated project" means a capital development project for which state funds from the Technical Colleges Capital Projects Fund created in Section 53B-2a-118 are requested or used.

(4) "Nondedicated project" means a capital development project for which state funds from a source other than the Technical Colleges Capital Projects Fund created in Section 53B-2a-118 are requested or used.

~~[(5) "Open-entry, open-exit" means:]~~

~~[(a) a method of instructional delivery that allows for flexible scheduling in response to individual student needs or requirements and demonstrated competency when knowledge and skills have been mastered;]~~

~~[(b) students have the flexibility to begin or end study at any time, progress through course material at their own pace, and demonstrate competency when knowledge and skills have been mastered; and]~~

~~[(c) if competency is demonstrated in a program of study, a credential, certificate, or diploma may be awarded.]~~

~~[(6)]~~ (5) "State funds" means the same as that term is defined in Section 63A-5b-401.

Section 11. Section **53B-2a-112** is amended to read:

53B-2a-112. Technical colleges -- Relationships with other public and higher education institutions -- Agreements -- Priorities -- New capital facilities.

(1) As used in this section, "higher education institution" means:

(a) Utah State University for:

(i) Bridgerland Technical College;

(ii) Tooele Technical College; and

(iii) Uintah Basin Technical College;

(b) Weber State University for:

(i) Ogden-Weber Technical College; and

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- (ii) Davis Technical College;
- (c) Utah Valley University for Mountainland Technical College;
- (d) Southern Utah University for Southwest Technical College; and
- (e) Utah Tech University for Dixie Technical College.

(2) A technical college may enter into agreements:

- (a) with other higher education institutions to cultivate cooperative relationships; or
- (b) with other public and higher education institutions to enhance career and technical

education within the technical college's region.

(3) Before a technical college develops new instructional facilities, the technical college shall give priority to:

(a) maintaining the technical college's existing instructional facilities for both secondary and adult students;

(b) coordinating with the president of the technical college's [~~higher education institution~~] degree-granting partner and entering into any necessary agreements to provide career and technical education to secondary and adult students that:

(i) maintain and support existing higher education career and technical education programs; and

(ii) maximize the use of existing higher education facilities; and

(c) developing cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of career and technical education instructional facilities for both secondary and adult students.

(4) (a) Before submitting a funding request pertaining to new capital facilities and land purchases to the board, a technical college shall:

(i) ensure that all available instructional facilities are maximized in accordance with Subsections (3)(a) through (c); and

(ii) coordinate the request with the president of the technical college's [~~higher education institution~~] degree-granting partner, if applicable.

(b) The Division of Facilities Construction and Management shall make a finding that the requirements of this section are met before the Division of Facilities Construction and Management may consider a funding request from the board pertaining to new capital facilities

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and land purchases for a technical college.

(c) A technical college may not construct, approve the construction of, plan for the design or construction of, or consent to the construction of a career and technical education facility without approval of the Legislature.

(5) Before acquiring new fiscal and administrative support structures, a technical college shall:

(a) review the use of existing public or higher education administrative and accounting systems, financial record systems, and student and financial aid systems for the delivery of [~~career and technical~~] education in the region;

(b) determine the feasibility of using existing systems; and

(c) with the approval of the technical college board of trustees and the board, use the existing systems.

Section 12. Section **53B-7-705** is amended to read:

53B-7-705. Determination of full new performance funding amount -- Role of appropriations subcommittee -- Program review.

(1) In accordance with this section, and based on money deposited into the account, the Legislature shall, as part of the higher education appropriations budget process, annually determine the full new performance funding amount for each:

(a) degree-granting institution; and

(b) technical college.

(2) (a) Before January 1, 2024, the Legislature shall annually allocate:

(i) 90% of the money in the account to degree-granting institutions; and

(ii) 10% of the money in the account to technical colleges.

(b) After January 1, 2024, the Legislature shall annually allocate:

(i) ~~85%~~ 80% of the money in the account to degree-granting institutions; and

(ii) ~~15%~~ 20% of the money in the account to technical colleges.

(3) (a) The Legislature shall determine a degree-granting institution's full new performance funding amount based on the degree-granting institution's prior year share of:

(i) full-time equivalent enrollment in all degree-granting institutions; and

(ii) the total state-funded appropriated budget for all degree-granting institutions.

(b) In determining a degree-granting institution's full new performance funding

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amount, the Legislature shall give equal weight to the factors described in Subsections (3)(a)(i) and (ii).

(4) (a) The Legislature shall determine a technical college's full new performance funding amount based on the technical college's prior year share of:

- (i) (A) before January 1, 2024, membership hours for all technical colleges; and
- (B) after January 1, 2024, full-time equivalent enrollment for all technical colleges; and
- (ii) the total state-funded appropriated budget for all technical colleges.

(b) In determining a technical college's full new performance funding amount, the Legislature shall give equal weight to the factors described in Subsections (4)(a)(i) and (ii).

(5) Annually, at least 30 days before the first day of the legislative general session the board shall submit a report to the Higher Education Appropriations Subcommittee on each degree-granting institution's and each technical college's performance.

(6) (a) In accordance with this Subsection (6), and based on the report described in Subsection (5), the Legislature shall determine for each degree-granting institution and each technical college:

- (i) the portion of the full new performance funding amount earned; and
- (ii) the amount of new performance funding to recommend that the Legislature appropriate, from the account, to the degree-granting institution or technical college.

(b) (i) This Subsection (6)(b) applies before January 1, 2024.

(ii) A degree-granting institution earns the full new performance funding amount if the degree-granting institution has a positive change in performance of at least 1% compared to the degree-granting institution's average performance over the previous five years.

(iii) A technical college earns the full new performance funding amount if the technical college has a positive change in the technical college's performance of at least 5% compared to the technical college's average performance over the previous five years.

(c) After January 1, 2024, a degree-granting institution or technical college earns the full new performance funding amount if the degree-granting institution or technical college meets the annual performance goals the board sets under Subsection 53B-7-706(1)(a)(ii).

(d) Before January 1, 2024, a degree-granting institution or technical college that has a positive change in performance that is less than a change described in Subsection (6)(b) is eligible to receive a prorated amount of the full new performance funding amount.

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(e) Before January 1, 2024, a degree-granting or technical college that has a negative change, or no change, in performance over a time period described in Subsection (6)(b) is not eligible to receive new performance funding.

(f) After January 1, 2024, a degree-granting institution or technical college that does not meet the goals the board sets under Subsection 53B-7-706(1)(a)(ii):

(i) is not eligible to receive the full new performance funding amount; and

(ii) is eligible to receive a prorated amount of the full new performance funding amount for performance that is greater than zero as measured by the model the board establishes under Subsection 53B-7-706(1)(a)(i)(B).

(g) ~~(f)~~ After January 1, 2024, if a degree-granting institution or technical college does not earn the full new performance funding amount as described in Subsection (6)(c), the board ~~shall~~:

~~(A)~~ (i) shall set aside the unearned new performance funding; and

~~(B)~~ (ii) may, at the end of an annual performance goal period within a five-year period for which the board sets goals under Subsection 53B-7-706(1)(a)(ii), ~~allocate~~ reallocate the funds set aside under Subsection ~~[(6)(g)(i)(A)] (6)(g)(i)~~ to a degree-granting institution or technical college that meets or exceeds the degree-granting institution's or technical college's ~~[five-year goals described in Subsection 53B-7-706(1)(a)(ii)(B)]~~:

~~(A)~~ previous year's annual performance goal; and

~~(B)~~ the performance goal that the institution previously failed to meet which caused the funding to be set aside.

~~[(ii) The board may reallocate the funds described in Subsection (6)(g)(i)(A) on a one-time basis to a degree-granting institution or technical college that exceeds the degree-granting institution's or technical college's annual performance goals until the board evaluates performance of five-year goals as described Subsection 53B-7-706(5).]~~

(7) An appropriation described in this section is ongoing.

(8) Notwithstanding Section 53B-7-703 and Subsections (6) and (7), the Legislature may, by majority vote, appropriate or refrain from appropriating money for performance funding as circumstances require in a particular year.

Section 13. Section **53B-7-706** is amended to read:

53B-7-706. Performance metrics for institutions -- Determination of

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performance.

(1) (a) (i) (A) The board shall establish a model for determining a degree-granting institution's performance.

(B) Beginning in March 2021, the board shall establish a model for determining a degree-granting institution's or technical college's performance.

(ii) Beginning in May 2021, the board shall:

(A) set a five-year goal for the Utah System of Higher Education for each metric described in Subsection (2)(a)(ii);

(B) adopt five-year goals for each degree-granting institution and technical college that align with each goal described in Subsection (1)(a)(ii)(A); and

(C) ensure the goals the board adopts for each degree-granting institution and technical college described in Subsection (1)(a)(ii)(B) are sufficiently rigorous to meet the goals described in Subsection (1)(a)(ii)(A); and

(b) (i) The board shall submit a draft of the model described in this section to the Higher Education Appropriations Subcommittee and the governor for comments and recommendations.

(ii) Beginning in 2021, and every five years thereafter, the board shall:

(A) submit the model described in Subsection (1)(a)(i) and the goals described in Subsection (1)(a)(ii) to the Higher Education Appropriations Subcommittee and to the governor for comments and recommendations; and

(B) consider the comments and recommendations described in Subsection (1)(b)(ii)(A), and make any necessary changes to the model described in Subsection (1)(a)(i) and the goals described in Subsection (1)(a)(ii).

(c) Beginning in 2021, and every five years thereafter, the Executive Appropriations Committee, the Higher Education Appropriations Subcommittee, and the Education Interim Committee shall prepare and jointly meet to consider legislation for introduction at the following general legislative session to adopt the goals described in Subsection (1)(a)(ii).

(2) (a) (i) The model described in Subsection (1)(a)(i)(A) shall include metrics, including:

(A) completion, measured by degrees and certificates awarded;

(B) completion by underserved students, measured by degrees and certificates awarded

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to underserved students;

(C) responsiveness to workforce needs, measured by degrees and certificates awarded in high market demand fields;

(D) institutional efficiency, measured by degrees and certificates awarded per full-time equivalent student; and

(E) for a research university, research, measured by total research expenditures.

(ii) Beginning in 2021, the board shall set the goals and establish the performance model described in Subsection (1)(a)(i)(B) for the following metrics:

(A) access;

(B) timely completion; and

(C) high-yield awards.

(b) (i) Subject to Subsection (2)(b)(ii), the board shall determine the relative weights of the metrics described in Subsection (2)(a)(i).

(ii) The board shall assign the responsiveness to workforce needs metric described in Subsection (2)(a)(i)(C) a weight of at least 25% when determining a degree-granting institution's performance.

(c) Beginning in 2021, the board shall determine and establish in board policy, the definitions, measures, and relative weights of the metrics described in Subsection (2)(a)(ii) based on each degree-granting institution's and each technical college's mission.

(3) (a) For each degree-granting institution, the board shall annually determine the degree-granting institution's:

(i) performance; and

(ii) change in performance compared to the degree-granting institution's average performance over the previous five years.

(b) [~~Beginning in 2022, for~~] For each degree-granting institution and technical college, the board shall annually:

(i) adopt annual performance goals for each metric described in Subsection (2)(a)(ii) that will advance the degree-granting institution or technical college toward achievement of the five-year goals described in Subsection (1)(a)(ii);

(ii) evaluate performance in meeting the goals described in Subsection (3)(b)(i); and

(iii) include a degree-granting institution's or technical college's performance under this

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section in the evaluation described in Subsection [~~53B-1-402(2)(i)(iii)~~] 53B-1-402(2)(i).

(4) (a) The board shall use the model described in Subsection (1)(a)(i)(A) to make the report described in Section 53B-7-705 for determining a degree-granting institution's performance funding for a fiscal year beginning on or after July 1, 2018, but before July 1, 2024.

(b) For a fiscal year beginning on or after July 1, 2024, the board shall use the model described in Subsection (1)(a)(i)(B) to make the report described in Section 53B-7-705 for determining a degree-granting institution's or technical college's performance funding.

(5) At the end of each five-year period for which the board sets goals under Subsection (1)(a)(ii):

(a) the board shall:

(i) review the Utah System of Higher Education's performance in meeting the goals the board sets under Subsection (1)(a)(ii)(A);

(ii) review each degree-granting institution's and each technical college's performance in meeting the goals the board sets under Subsection (1)(a)(ii)(B); and

(iii) allocate any funds not allocated under Subsection 53B-7-705(6)(g) to each degree-granting institution and each technical college that meets or exceeds the goals the board sets under Subsection (1)(a)(ii)(B); and

(b) the Legislature may appropriate additional funds for the board to allocate to each degree-granting institution and each technical college that meets or exceeds goals as described in Subsection (5)(a)(iii).

(6) In year two or three of each five-year period for which the board sets goals under Subsection (1)(a)(ii), the following committees and the governor shall hold a joint open meeting to review the goals the board sets under Subsection (1)(a)(ii):

(a) the Executive Appropriations Committee;

(b) the Higher Education Appropriations Subcommittee; and

(c) the Education Interim Committee.

Section 14. Section **53B-13a-102** is amended to read:

53B-13a-102. Definitions.

As used in this chapter:

(1) (a) "Cost of attendance" means the estimated costs associated with attending an

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institution, as established by the institution in accordance with board policies.

(b) "Cost of attendance" includes costs payable to the institution, other direct educational expenses, transportation, and living expenses while attending the institution.

(2) (a) "Eligible student" means a financially needy student who is:

(i) unconditionally admitted to and enrolled at a Utah postsecondary institution on at least a half-time basis, as defined by the board, in an eligible postsecondary program leading to a defined education or training objective, as defined by the board;

(ii) making satisfactory academic progress, as defined by the institution in published policies or rules, toward an education or training objective; and

(iii) (A) a resident student under Section 53B-8-102 and rules of the board; or

(B) exempt from paying the nonresident portion of total tuition under Section 53B-8-106.

(b) "Eligible student" does not include a graduate student.

(3) "Financially needy student" means a student who demonstrates the financial inability to meet all or a portion of the cost of attendance at an institution for any period of attendance as defined by the board, after considering the student's expected family contribution.

(4) "Fiscal year" means the fiscal year of the state.

(5) "Partner award" means a financial award described in Section 53B-13a-106.

(6) "Program" means the Utah Promise Program.

(7) "Promise partner" means an employer that participates in the program described in Section 53B-13a-106.

(8) "Utah postsecondary institution" or "institution" means:

(a) an institution of higher education listed in Section 53B-1-102; or

(b) a Utah private, nonprofit postsecondary institution that is accredited by ~~[a regional]~~ an accrediting organization [recognized by the board] that the United States Department of Education recognizes.

Section 15. Section **53B-13b-102** is amended to read:

53B-13b-102. Definitions.

As used in this chapter:

(1) "Federal program" means a veterans educational assistance program established in:

(a) United States Code, Title 10, Chapter 1606, Educational Assistance for Members of

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the Selected Reserve;

(b) United States Code, Title 38, Chapter 30, All-Volunteer Force Educational Assistance Program;

(c) United States Code, Title 38, Chapter 31, Training and Rehabilitation for Veterans with Service-Connected Disabilities;

(d) United States Code, Title 38, Chapter 32, Post-Vietnam Era Veterans' Educational Assistance; or

(e) United States Code, Title 38, Chapter 33, Post-9/11 Educational Assistance.

(2) "Institution of higher education" or "institution" means:

(a) an institution of higher education listed in Subsection 53B-2-101(1); or

(b) a private, nonprofit, postsecondary institution located in Utah that is accredited by ~~a recognized~~ an accrediting organization ~~recognized by~~ that the United States Department of Education recognizes.

(3) "Program" means the Veterans Tuition Gap Program created in this chapter.

(4) (a) "Qualifying military veteran" means a veteran, as defined in Section 68-3-12.5, who:

(i) is a resident student under Section 53B-8-102 and rules of the board;

(ii) is accepted into an institution and enrolled in a program leading to a bachelor's degree;

(iii) (A) has exhausted the federal benefit under a federal program; or

(B) demonstrates that the veteran no longer qualifies to receive federal benefits under any federal program; and

(iv) has not completed a bachelor's degree.

(b) "Qualifying military veteran" does not include a family member.

Section 16. Section **53B-13c-101** is amended to read:

53B-13c-101. Definitions.

As used in this chapter:

(1) (a) "Cost of attendance" means the estimated costs associated with taking an online course, as established by an eligible institution in accordance with board policies.

(b) "Cost of attendance" includes tuition, costs payable to the eligible institution, and other direct educational expenses related to taking an online course.

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(2) "Eligible institution" means an institution that offers a postsecondary level course of instruction using digital technology.

(3) "Eligible student" means a financially needy student who is:

(a) at least 26 years old;

(b) enrolled in an online course at an eligible institution;

(c) pursuing:

(i) an online postsecondary degree program in a field where there is a demonstrated industry need; or

(ii) an online non-degree program that is designed to meet industry needs and leads to a certificate or another recognized educational credential; and

(d) a resident student under Section 53B-8-102 and rules the board establishes.

(4) "Financially needy student" means a student who demonstrates the financial inability to meet all or a portion of the cost of attendance at an eligible institution as defined by the board, after utilizing family and personal resources, federal assistance, and scholarships.

(5) "Fiscal year" means the fiscal year of the state.

(6) "Institution" means:

(a) an institution described in Section 53B-1-102; or

(b) a Utah private, nonprofit postsecondary institution that is accredited by ~~[a regional]~~ an accrediting organization that the ~~[board]~~ United States Department of Education recognizes.

(7) "Online course" means a postsecondary level course of instruction offered by an eligible institution using digital technology.

(8) "Program" means the Adult Learners Grant Program established in Section 53B-13c-102.

(9) "Tuition" means tuition and fees at the rate charged for residents of the state.

Section 17. Section **53B-16-101** is amended to read:

53B-16-101. Establishment of institutional roles and general courses of study.

(1) Except as institutional roles are specifically assigned by the Legislature, the board:

(a) shall establish and define the roles of the various institutions of higher education;

and

(b) shall, within each institution of higher education's primary role, prescribe the general course of study to be offered at the institution of higher education, including for:

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(i) research universities, which provide undergraduate, graduate, and research programs and include:

(A) the University of Utah; and

(B) Utah State University;

(ii) regional universities, which provide career and technical education, undergraduate associate and baccalaureate programs, and select master's degree programs to fill regional demands and include:

(A) Weber State University;

(B) Southern Utah University;

(C) Utah Tech University; and

(D) Utah Valley University;

(iii) comprehensive community colleges, which provide associate programs and include:

(A) Salt Lake Community College; and

(B) Snow College; and

(iv) technical colleges and degree-granting institutions that provide technical education, and include:

(A) each technical college; and

(B) the degree-granting institutions described in Section 53B-2a-201.

(2) (a) Except for the University of Utah, and subject to Subsection (2)(b), each institution of higher education described in Subsections (1)(b)(i) through (iii) has career and technical education included in the institution of higher education's primary role.

(b) The board shall determine the extent to which an institution described in Subsection (2)(a) provides career and technical education within the institution's primary role.

(3) The board shall further clarify each institution of higher education's primary role by clarifying:

(a) the level of program that the institution of higher education generally offers, in accordance with Subsection 53B-16-102(3);

(b) broad fields that are within the institution of higher education's mission; and

(c) any special characteristics of the institution of higher education, such as being a land grant university.

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Section 18. Section **53B-16-102** is amended to read:

53B-16-102. Changes in curriculum -- Substantial alterations in institutional operations -- Program approval -- Periodic review of programs -- Career and technical education curriculum changes.

(1) As used in this section:

(a) "Institution of higher education" means an institution described in Section 53B-1-102.

(b) "Program of instruction" means a program of curriculum that leads to the completion of a degree, diploma, certificate, or other credential.

(2) Under procedures and policies approved by the board and developed in consultation with each institution of higher education, each institution of higher education may make such changes in the institution of higher education's curriculum as necessary to better effectuate the institution of higher education's primary role.

(3) The board shall establish criteria for whether an institution of higher education may approve a new program of instruction, including criteria related to whether:

(a) the program of instruction meets identified workforce needs;

(b) the institution of higher education is maximizing collaboration with other institutions of higher education to provide for efficiency in offering the program of instruction;

(c) the new program of instruction is within the institution of higher education's mission and role; and

(d) the new program of instruction meets other criteria determined by the board.

(4) (a) Except as provided in Subsection (4)(b), without the approval of the board, an institution of higher education may not:

(i) establish a branch, extension center, college, or professional school; or

(ii) establish a new program of instruction.

(b) An institution of higher education may, with the approval of the institution of higher education's board of trustees, establish a new program of instruction that meets the criteria described in Subsection (3), subject to board review for pathway articulation.

(5) (a) An institution of higher education shall notify the board of a proposed new program of instruction, including how the proposed new program of instruction meets the criteria described in Subsection (3).

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(b) The board shall establish procedures and guidelines for institutional boards of trustees to consider an institutional proposal for a new program of instruction described in Subsection (4)(b).

(6) (a) The board shall conduct a periodic review of all new programs of instruction, including those funded by gifts, grants, and contracts, no later than two years after the first cohort to begin the program of instruction completes the program of instruction.

(b) The board may conduct a periodic review of any program of instruction at an institution of higher education, including a program of instruction funded by a gift, grant, or contract.

(c) The board shall conduct:

(i) at least once every seven years, at least one review described in Subsection (6)(b) of each program of instruction at each institution; and

(ii) annually, a qualitative and quantitative review of academic disciplines across the system, including enrollment, graduation rates, and workforce placement, ensuring that the board conducts a review of all disciplines within the system at least once every seven years.

~~[(c)]~~ (d) Following a review described in this Subsection (6) and after providing the relevant institution of higher education an opportunity to respond to the board's review of a given program of instruction, the board may [~~recommend that the institution of higher education~~] modify, consolidate, or terminate the program of instruction.

~~[(7) Prior to requiring modification or termination of a program, the board shall give the institution of higher education adequate opportunity for a hearing before the board.]~~

~~[(8)]~~ (7) In making decisions related to career and technical education curriculum changes, the board shall coordinate on behalf of the boards of trustees of higher education institutions a review of the proposed changes by the State Board of Education to ensure an orderly and systematic career and technical education curriculum that eliminates overlap and duplication of course work with high schools and technical colleges.

Section 19. Section **53B-16-105** is amended to read:

53B-16-105. Common course numbering -- Transferability of credits -- Agreement with competency-based general education provider -- Policies.

(1) As used in this section:

(a) (i) "Accredited institution" means an institution that:

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(A) offers a competency-based postsecondary general education course online or in person; and

(B) is accredited by an organization that the United States Department of Education recognizes.

~~[(a)]~~ (b) "Articulation agreement" means an agreement between the board and a provider that allows a student to transfer credit awarded by the provider for a general education course to any institution of higher education.

~~[(b)]~~ (c) "Competency-based" means a system where a student advances to higher levels of learning when the student demonstrates competency of concepts and skills regardless of time, place, or pace.

~~[(c)]~~ (d) "Competency-based general education provider" or "provider" means a private institution that:

(i) offers a postsecondary competency-based general education course online or in person;

(ii) awards academic credit; and

(iii) does not award degrees, including associates degrees or baccalaureate degrees.

~~[(d)]~~ (e) "Credit for prior learning" means the same as that term is defined in Section 53B-16-110.

~~[(e)]~~ (f) "Institution of higher education" means an institution described in Section 53B-1-102.

~~[(f)] "Regionally accredited institution" means an institution that:]~~

~~[(i) offers a competency-based postsecondary general education course online or in person; and]~~

~~[(ii) is accredited by a regional accrediting body recognized by the United States Department of Education.]~~

(2) The board shall:

(a) facilitate articulation and the seamless transfer of courses, programs, and credit for prior learning within the Utah ~~[system of higher education]~~ System of Higher Education;

(b) provide for the efficient and effective progression and transfer of students within the Utah ~~[system of higher education]~~ System of Higher Education;

(c) avoid the unnecessary duplication of courses;

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(d) communicate ways in which a student may earn credit for prior learning; and

(e) allow a student to proceed toward the student's educational objectives as rapidly as the student's circumstances permit.

(3) The board shall develop, coordinate, and maintain a transfer and articulation system that:

(a) maintains a course numbering system that assigns common numbers to specified courses of similar level with similar curricular content, rigor, and standards;

(b) allows a student to track courses that transfer among institutions of higher education [~~to meet requirements for general education and lower division courses that transfer to baccalaureate majors~~];

(c) allows a student to transfer courses from a provider with which the board has an articulation agreement to any institution of higher education;

(d) allows a student to transfer competency-based general education courses from [~~a regionally~~] an accredited institution to an institution of higher education;

(e) improves program planning;

(f) increases communication and coordination between institutions of higher education;

(g) facilitates student acceleration and the transfer of students and credits between institutions of higher education; and

(h) if the system includes a software or data tool:

(i) provides predictive analysis that models probabilities of student success; and

(ii) develops tailored strategies to best support students.

(4) (a) The board shall identify general education courses in the humanities, social sciences, arts, physical sciences, and life sciences with uniform prefixes and common course numbers.

(b) A degree-granting institution shall annually identify institution courses that satisfy requirements of courses described in Subsection (4)(a).

(c) A degree-granting institution shall accept a course described in Subsection (3)(c), (3)(d), or (4)(a) toward filling specific area requirements for general education or lower division courses that transfer to baccalaureate majors.

(5) (a) The board shall:

(i) identify technical education programs with common names, descriptions, lengths,

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and objectives; and

(ii) within technical education programs, common course names, descriptions, length, and objectives allowing for customization of electives to meet regional industry demand.

(b) The commissioner shall appoint committees of faculty members from technical education committees to recommend aligned programs and courses that will satisfy graduation requirements.

~~[(5)]~~ (6) (a) The board shall identify common prerequisite courses and course substitutions for degree programs across degree-granting institutions.

(b) The commissioner shall appoint committees of faculty members from the degree-granting institutions to recommend appropriate courses of similar content and numbering that will satisfy requirements for lower division courses that transfer to baccalaureate majors.

(c) A degree-granting institution shall annually identify institution courses that satisfy requirements of courses described in Subsection ~~[(5)(a)]~~ (6)(a).

(d) A degree-granting institution shall accept a course described in Subsection (3)(c), (3)(d), or ~~[(5)(a)]~~ (6)(a) toward filling graduation requirements.

~~[(6)]~~ (7) (a) (i) The board shall seek proposals from providers to enter into articulation agreements.

(ii) A proposal described in Subsection ~~[(6)(a)(i)]~~ (7)(a)(i) shall include the general education courses that the provider intends to include in an articulation agreement.

(b) The board shall:

(i) evaluate each general education course included in a proposal described in Subsection ~~[(6)(a)]~~ (7)(a) to determine whether the course is equally rigorous and includes the same subject matter as the equivalent course offered by any institution of higher education; and

(ii) if the board determines that a course included in a provider's proposal is equally rigorous and includes the same subject matter as the equivalent course offered by any institution of higher education, enter into an articulation agreement with the provider.

~~[(7)]~~ (8) The board shall establish policies to administer the policies and requirements described in this section.

~~[(8)]~~ (9) The board shall include information demonstrating that institutions of higher education are complying with the provisions of this section and the policies established in

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accordance with Subsection [(7)] (8) in the annual report described in Section 53B-1-402.

Section 20. Section **53B-20-101** is amended to read:

53B-20-101. Property of institutions to vest in state board.

The [~~State~~] Utah Board of [~~Regents~~] Higher Education is the successor to, and vested with, all the powers and authority relating to all properties, real and personal, tangible and intangible, and to the control and management of the property which was held by the governing board of each institution prior to the creation of the board.

Section 21. Section **53B-21-108** is amended to read:

53B-21-108. Financing project by contract or lease agreement instead of by bond issue -- Authority of board -- Term of lease -- Terms of agreement -- Board covenants.

(1) Whenever the board, by resolution, finds and declares it preferable to acquire a project under this chapter by purchase or lease of the facilities constituting the project under an agreement which provides the consideration for the purchase or lease to be paid in installments during a period not exceeding [~~40~~] 99 years, rather than through the issuance of revenue bonds by the board in the manner provided in this chapter, it may do so upon compliance with this section.

(2) The board may lease, to any person, any portion of the campus of the institution necessary as a site for a project which the board is authorized to acquire under Section 53B-20-103, [~~to any person,~~] for a term not exceeding [~~40~~] 99 years.

(3) The agreement authorized to be entered into by the board shall provide that the person shall construct, improve, remodel, add to, or extend a project of the type and construction described in the agreement on the part of the campus to be leased to the person, or on such real property as may be acquired for that purpose by the person.

(4) The agreement shall further provide for the leasing of the project, including necessary equipment, furnishings, and land, from the person to the board executing the agreement, for a period not exceeding [~~40~~] 99 years.

(5) Prior to the execution of the agreement, the person proposing to lease the project, including the necessary equipment, furnishings, and land, to the board shall submit to the board all plans, specifications, and estimates for the project.

(6) The plans, specifications, and estimates shall be approved by resolution of the board prior to the execution of the agreement.

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- (7) The board may, by appropriate provisions in the agreement:
- (a) covenant as to the use which will be made of the project;
 - (b) covenant as to the operation, maintenance, and supervision of the project;
 - (c) covenant to collect fees and charges from all students and other persons availing themselves of the use of the accommodations and facilities of the project;
 - (d) covenant to levy and collect student building fees from all regular and part-time students enrolled in the institution for the use and availability of the project;
 - (e) covenant as to the collection, use, and disposition of the proceeds arising from the collection of all the revenues, fees, and charges;
 - (f) covenant to impose and collect fees and charges in amounts adequate to pay all costs incurred in maintaining and operating the project and to pay the amortization of the acquisition cost of the project, including necessary equipment and furnishings, and interest on the unpaid part of the acquisition cost, whether represented by rental installments or otherwise;
 - (g) covenant to pledge all revenues, fees, and charges, including student building fees, arising from the ownership and operation of the project to the payment of the rental installments provided for under the terms of the contract or lease agreement;
 - (h) covenant as to the rights, liabilities, powers, and duties arising from the breach of any covenant or agreement contained in the agreement;
 - (i) covenant and agree to carry any insurance on the project, and its use and occupancy, as the board considers desirable, and to provide that the cost of the insurance shall be included as a part of the cost of operating the project;
 - (j) covenant to make and enforce such parietal rules and regulations with reference to the use of the facilities comprising the project, or any part of the project, and with reference to requiring any class of students to use the project, or any part of the project, as the board determines desirable for the institution; and
 - (k) covenant against the pledging of the revenues, fees, and charges, including student building fees, arising from the ownership and operation of the project for any purpose other than the payment of the rental installments required to be paid under the agreement, or against the issuance of any obligations payable therefrom, unless the pledge or obligations are made subordinate to the agreement. Nothing in this section prevents the board from providing conditions and terms under which pledges may be made and obligations issued on a parity with

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the pledge of revenues, fees, and charges under the agreement.

(8) It shall be specifically provided in the agreement that the board is not obligated to pay the rental installments or amortization of the acquisition cost of the project, and interest on the unpaid part of the acquisition cost, from any source other than the revenues, fees, and charges arising from the ownership and operation of the project, including student building fees levied for the use and availability of the facilities of the project.

(9) Each agreement shall provide that the rental installments, or amortization of the acquisition cost of the project, including necessary equipment, furnishings, and land, and interest on the unpaid part of the acquisition cost, are not an obligation of the state, and that ad valorem taxes or appropriations from the state may not be used to pay or discharge the amounts required to be paid under the agreement.

(10) The agreement shall also provide that when the amortized acquisition cost, as represented by the rental installments, has been paid in full and when all obligations, if any, issued by the person to finance the cost of the acquisition of the project have been paid in full as to both principal and interest, the agreement terminates and title to the project, including the land upon which the project is situated, and all equipment and furnishings, vests in the board.

(11) The agreement may provide that the board may purchase the project, including the land upon which the project is situated, and all equipment and furnishings, which is subject to the agreement upon terms wherein rental installments previously made, or a portion of them, are deducted from the cost of acquisition of the project, including the land upon which the project is situated, and all equipment and furnishings, as provided for in the agreement.

(12) The board may furnish without charge heat, light, water, power, and similar facilities for any project leased by the board for operation by the board under this section, and all projects acquired and constructed under this section are exempt from taxation.

(13) The agreement may provide that the board may lease the project, including the land upon which the project is situated, and all equipment and furnishings, to any person for a term not exceeding ~~[40]~~99 years for operation by any person.

(14) A lease may not be entered into unless the rental to be paid to the board by the person is sufficient to satisfy the rental to be paid by the board to the person from which the project was originally leased. But in no event may the rental paid to the board be less than the fair rental value of the property leased.

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Section 22. Section 53B-35-201 is amended to read:

53B-35-201. Higher Education and Corrections Council.

(1) There is created the Higher Education and Corrections Council to advise the board, the Education Interim Committee, and the Higher Education Appropriations Subcommittee regarding the development and delivery of accredited higher education curriculum to incarcerated individuals in the state correctional system.

(2) The council consists of the following ~~[13]~~ 11 members:

(a) a member of the House of Representatives whom the speaker of the House of Representatives appoints;

(b) a member of the Senate whom the president of the Senate appoints;

~~[(c) two members of the board whom the chair of the board appoints;]~~

~~[(i) one member having expertise in technical colleges; and]~~

~~[(ii) one member having expertise in general education;]~~

~~[(d)]~~ (c) the commissioner or the commissioner's designee;

~~[(e)]~~ (d) the following two members whom the commissioner appoints and who are engaged in prison education and have expertise in transfer articulation:

(i) one employee of a technical college; and

(ii) one employee of a degree-granting institution;

~~[(f)]~~ (e) the following two members whom the governor appoints:

(i) an individual who actively researches higher education delivered in a corrections setting using evidence-based practices; and

(ii) a formerly incarcerated individual who participated in postsecondary educational programs while incarcerated;

~~[(g)]~~ (f) one member of the Board of Pardons and Parole whom the chair of the Board of Pardons and Parole appoints;

~~[(h)]~~ (g) the executive director of the Department of Corrections or the executive director's designee;

~~[(i)]~~ (h) one employee of the Department of Corrections with expertise in education whom the executive director of the Department of Corrections appoints; and

~~[(j)]~~ (i) the executive director of the Department of Workforce Services or the executive director's designee.

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(3) (a) The members described in Subsections (2)(a) and (2)(b) shall serve as co-chairs of the council.

(b) (i) Except as provided under Subsection (3)(b)(ii), an appointed member of the council shall serve a term of two years.

(ii) A council member's term ends on the day on which the member's status that allows the member to serve on the council under Subsection (2) ends.

(c) The individuals authorized to make appointments under Subsection (2) shall make the respective appointments:

(i) for the initial appointments, before July 1, 2022;

(ii) for subsequent terms, before July 1 of each odd-numbered year, by:

(A) reappointing the council member whose term expires under Subsection (3)(b)(i); or

(B) appointing a new council member; and

(iii) in the case of a vacancy created under Subsection (3)(b)(ii), for the remainder of the vacated term.

(d) The individual authorized to make appointments under Subsection (2) may change the relevant appointment described in Subsection (2) at any time for the remainder of the existing term.

(4) (a) The salary and expenses of a council member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A council member who is not a legislator:

(i) may not receive compensation or benefits for the member's service on the council; and

(ii) may receive per diem and reimbursement for travel expenses that the council member incurs as a council member at the rates that the Division of Finance establishes under:

(A) Sections 63A-3-106 and 63A-3-107; and

(B) rules that the Division of Finance makes under Sections 63A-3-106 and 63A-3-107.

(5) (a) A majority of the council members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the council.

(6) The commissioner shall provide staff support to the council.

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Section ~~21~~23. Section 67-1-12 is amended to read:

67-1-12. Displaced defense workers.

(1) The governor, through the Department of Workforce Services, may use funds specifically appropriated by the Legislature to benefit, in a manner prescribed by Subsection (2):

- (a) Department of Defense employees within the state who lose their employment because of reductions in defense spending by the federal government;
- (b) persons dismissed by a defense-related industry employer because of reductions in federal government defense contracts received by the employer; and
- (c) defense-related businesses in the state that have been severely and adversely impacted because of reductions in defense spending.

(2) Funds appropriated under this section before fiscal year 1999-2000 but not expended shall remain with the agency that possesses the funds and shall be used in a manner consistent with this section. Any amount appropriated under this section in fiscal year 1999-2000 or thereafter may be used to:

- (a) provide matching or enhancement funds for grants, loans, or other assistance received by the state from the United States Department of Labor, Department of Defense, or other federal agency to assist in retraining, community assistance, or technology transfer activities;
- (b) fund or match available private or public funds from the state or local level to be used for retraining, community assistance, technology transfer, or educational projects coordinated by state or federal agencies;
- (c) provide for retraining, upgraded services, and programs at technical colleges, public schools, higher education institutions, or any other appropriate public or private entity that are designed to teach specific job skills requested by a private employer in the state or required for occupations that are in demand in the state;
- (d) aid public or private entities that provide assistance in locating new employment;
- (e) inform the public of assistance programs available for persons who have lost their employment;
- (f) increase funding for assistance and retraining programs;
- (g) provide assistance for small start-up companies owned or operated by persons who

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have lost their employment;

(h) enhance the implementation of dual-use technologies programs, community adjustment assistance programs, or other relevant programs under Pub. L. No. 102-484; and

(i) coordinate local and national resources to protect and enhance current Utah defense installations and related operations and to facilitate conversion or enhancement efforts by:

(i) creating and operating state information clearinghouse operations that monitor relevant activities on the federal, state, and local level;

(ii) identifying, seeking, and matching funds from federal and other public agencies and private donors;

(iii) identifying and coordinating needs in different geographic areas;

(iv) coordinating training and retraining centers;

(v) coordinating technology transfer efforts between public entities, private entities, and institutions of higher education;

(vi) facilitating the development of local and national awareness and support for Utah defense installations;

(vii) studying the creation of strategic alliances, tax incentives, and relocation and consolidation assistance; and

(viii) exploring feasible alternative uses for the physical and human resources at defense installations and in related industries should reductions in mission occur.

(3) The governor, through the Department of Workforce Services, may coordinate and administer the expenditure of money under this section and collaborate with [~~applied technology centers, public~~] institutions of higher [~~learning~~] education, or other appropriate public or private entities to provide retraining and other services described in Subsection (2).

Section ~~{22}~~24. **Repealer.**

This bill repeals:

Section **53B-1-406, Nominating committee.**

Section **53B-1-502, Transition of Utah System of Technical Colleges to Utah Board of Higher Education -- Recommendations.**

Section **53B-6-106, Jobs Now and economic development initiatives.**

Section ~~{23}~~. **Revisor instructions.**

~~The Legislature intends that the Office of Legislative Research and General Counsel, in~~

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~~preparing the Utah Code database for publication, replace the reference in Section 53B-1-404 from "the effective date of this bill" to the bill's actual effective date.~~

†25. Effective date.

This bill takes effect on July 1, 2023.